

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DAVID BALLARD	:	CIVIL ACTION
	:	
v.	:	
	:	
SAFEGUARD STORAGE PROPERTIES, LLC., et al.	:	NO. 13-1844

MEMORANDUM OPINION

Savage, J.

July 1, 2013

In this *pro se* civil rights action, plaintiff David Ballard (“Ballard”) alleges that the defendants violated his constitutional rights. He has named as defendants Safeguard Storage Properties, LLC. (“Safeguard”), the owner and operator of a storage facility; Shaneen Allen, a manager; and Anthony Tully, an assistant manager there. Ballard contends that Allen and Tully violated his constitutional rights because they looked at the contents of his rented storage unit and informed the police that some of the items in the unit may have been stolen. He also complains that they gave the police his personal information and access to his storage unit. Finally, Ballard alleges that Safeguard wrongfully sold his property while he was in police custody.

Ballard filed a motion to proceed *in forma pauperis*. As it appears he is unable to pay the cost of commencing this action, leave to proceed *in forma pauperis* will be granted. However, we shall dismiss his complaint pursuant to 28 U.S.C. § 1915(e).

The two threshold requirements of a claim under § 1983 are misconduct by a person acting under color of state law and the deprivation of a right secured by the Constitution or laws of the United States. See *West v. Atkins*, 487 U.S. 42, 48 (1988); *Kneipp v. Tedder*, 95 F.3d 1199, 1204 (3d Cir. 1996) (quotation omitted). Ballard does not allege that Safeguard Storage Properties, LLC or the individual defendants are state actors. Nor can we determine that they were. In fact, all allegations show that they were not state actors and were not acting under color of state law. Accordingly, we shall dismiss Ballard’s

complaint for failure to state a claim.

Ballard shall not be given leave to amend his complaint because an amendment would be futile. However, the dismissal is without prejudice to Ballard's right to present any state law claims in state court.